

# Holland & Knight

31 West 52nd Street | New York, NY 10019 | T 212.513.3200 | F 212.385.9010  
Holland & Knight LLP | [www.hklaw.com](http://www.hklaw.com)

Katherine A. Skeele  
+1 212-513-3534  
Katherine.Skeele@hklaw.com

May 10, 2021

*Via ECF*

Honorable Edward S. Kiel  
United States Magistrate Judge for the District of  
New Jersey  
Martin Luther King Building & U.S. Courthouse  
50 Walnut Street  
Newark NJ 07101

Re: *Ameritas Life Ins. Corp. v. Wilmington Trust, N.A.*, Civil Action No. 2:19-cv-18713  
Joint Letter Agenda for May 11, 2021 Conference

Dear Judge Kiel:

In conformity with Your Honor's January 26, 2021 Text Order (Dkt. No. 53), the parties jointly submit the following proposed agenda in advance of the May 11, 2021 conference in the above-referenced matter.

## Party Discovery

At the January 26, 2021 conference, Defendant referenced a dispute regarding the scope of Plaintiff's production to date. On March 5, 2021, Defendant sent Plaintiff a detailed deficiency letter. Plaintiff provided a detailed response on April 14, 2021 in support of its position. The basic nature of the dispute is that Defendant seeks production of Plaintiff's investigation files underlying the denial of Plaintiff's claim on the Policy at issue, and Plaintiff claims a privilege interest in those files. Defendant intends to file its pre-motion letter next week, seeking the opportunity to conference this issue before Your Honor.

Aside from the aforementioned issue, there is no additional issue outstanding with respect to the parties' written discovery obligations.

Depositions have commenced in this matter, and the depositions of fact witnesses Jeantov (aka Jonathan) Hercsky and Yaffa Sarn, the late insured's son and wife, have been taken. Hillel

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Schreiber, a life settlement broker, has also been deposed. Additional fact witness depositions are either contemplated or have been scheduled. The parties' depositions remain to be scheduled.

Third Party Discovery

Since the last conference, Plaintiff has continued to serve additional non-party document subpoenas, including several that remain outstanding and for which efforts to secure cooperation are underway. Plaintiff has identified at least five additional entities upon which subpoenas will be served shortly and expects more will be required as discovery progresses.

Plaintiff has moved this Court to compel production by subpoenaed third party Life Equity. That motion was fully briefed on April 26, 2021, and taken on submission on May 3, 2021. It has not yet been decided.

Deadlines

The current deadline for the close of discovery is July 30, 2021. The feasibility of meeting this deadline will depend largely on the resolution of the dispute regarding the scope of Plaintiff's production. Defendant contends that it needs to have, and to review, Plaintiffs' investigation files before a deposition of Plaintiff will be meaningful. Depending on the outcome (and timing) of the proposed motion to compel, a further extension of the discovery end date may be necessary. Completion of discovery also depends upon cooperation of non-parties with respect to document and deposition subpoenas.

We look forward to conferring with you on May 11.

Sincerely yours,

HOLLAND & KNIGHT LLP

/s Katherine A. Skeele  
Katherine A. Skeele